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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/632,091	08/01/2003	Rick Kiessig	25396-004	3397

7590 11/02/2006

Rick A. Toering
Mintz Levin Cohn Ferris Glovsky and Popeo PC
Suite 900
12010 Sunset Hills Road
Reston, VA 20190

EXAMINER

LEWIS, CHERYL RENE A

ART UNIT PAPER NUMBER

2167

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/632,091

Applicant(s)

KIESSIG ET AL.

Examiner

Cheryl Lewis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 5-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in response to the applicants' amendment received on August 14, 2006.
2. Claims 1, 2, and 5-35 are presented for examination.
3. The applicants have amended claims 1, 2, 5, 6, 11, 18, and 27-33 in the amendment received on August 14, 2006. Also, the amendment received on August 14, 2006 has cancelled claims 3 and 4.
4. Applicants' arguments filed on August 14, 2006 have been fully considered but they are not deemed to be persuasive with regards to the 35 U.S.C. 101 rejection as presented in the Office Action below.

Specification

5. The applicants have amended the Specification to include reference serial numbers to identify the plurality of applications that have been incorporated with the instant application.

Drawings

6. The applicants have submitted replacement drawing sheets for figures 1-5. Therefore, the drawings submitted on August 14, 2006 are accepted by the Examiner.

Double Patenting

7. The double patenting rejection cited in the prior Office Action dated February 13, 2006 is hereby withdrawn. The applicants have filed a terminal disclaimer to overcome the provisional obviousness-type double patenting rejection of the instant application (10/632091) over applications 10/632086 and 10/632087.

The terminal disclaimer has been approved and it has been placed in the application file.

Claim Rejections - 35 USC § 101

8. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

9. Claims 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. As follows:

Claim 1 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject. Claim 1 is directed to a volume manager manages electronic files on the volume and manage metadata relating to electronic files on the volume; a coherency manager module coupled to the volume manager to manage a version of a selected electronic file and a relation to another file based on associated metadata; an organization module to organize electronic filed based on metadata, the metadata includes a tag having a name/value pair describing the file attribute, and the metadata includes user define metadata. The claimed inventions, as a whole must

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accomplish a **practical application**. That is, it must produce a **“useful, concrete and tangible result.”** *State Street, 149 F.3d at 1373, 47 USPQ2s at 1601-02. MPEP 2106.*

In each of these cases the **result** appears to be the management of the various modules coupled to one another in a computerized storage system. The claimed limitations are an abstraction as they are not **useful, concrete, and tangible** they are not put in any tangible form and not useful because they are not presented in such a way as to produce and/or provide some result that is of utility that may exist in the specification however no specific use is provided for in the claimed invention. Thus the claims are non-statutory and stand rejected under 101 as not **producing a “useful, concrete and tangible result.”**

It is the opinion of the Examiner that independent claim 1 is a practical application, however the practicality of this application is not producing “tangible results”. Independent claim 1 provides a detailed description of the modules that are coupled to one another within a computerized management system. Further, the modules only provide a detailed description about the type of data structures that each individual module manages. The management of these modules detail specific data structures and/or data objects that are comprised within these modules. Simply put, what is missing from independent claim 1 is the manipulation, transformation, etc. of data that would produce a tangible result. Independent claim 1 states that files comprise metadata that are user defined, the files comprise a version of a relationship, etc. It appears that these features provide a detailed description of producing a would be tangible result, but how are these features being transformed?

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Thus claims 2 and 5-35 are also rejected for at least the reasons set forth above.

NAME OF CONTACT

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Lewis whose telephone number is (571) 272-4113. The examiner can normally be reached on 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on (571) 272-7079. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

(571) 273-4113 (Use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper/amendment be faxed directly to them on occasions.).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist/ Technology Center (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>.

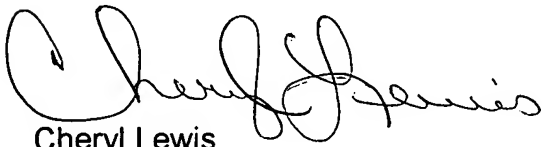
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Should you have questions on access to the Private PAIR system, contact the

Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Cheryl Lewis". The signature is fluid and cursive, with the first name "Cheryl" being more prominent than the last name "Lewis".

Cheryl Lewis
Patent Examiner
October 30, 2006